

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

09/17/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000188

FILED: _____

STATE OF ARIZONA

GERALD R GRANT

v.

JOSHUA CHEYENNE GILLILAND

JOSHUA CHEYENNE GILLILAND
4022 W PARADISE LN
PHOENIX AZ 85053-0000

NORTH VALLEY JUSTICE COURT
REMAND DESK CR-CCC

MINUTE ENTRY

NORTH VALLEY JUSTICE COURT

Cit. No. #2159123

Charge: A. EXCESSIVE SPEED
B. FAILURE TO SIGNAL LANE CHANGE

DOB: 05/30/81

DOC: 12/23/01

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

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This Court has considered and reviewed the memorandum submitted by Appellant and the record of the proceedings in the North Valley Justice Court. This case has been under advisement since its assignment on August 28, 2002. This decision is made within 30 days as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice.

Most of the issues raised by the Appellant concern the sufficiency of the evidence to warrant the trial court's finding that Appellant was responsible for the civil traffic violations of Excessive Speed and Failure to Signal Lane Change. When reviewing the sufficiency of the evidence, an appellate court must not re-weigh the evidence to determine if it would reach the same conclusion as the original trier of fact.¹ All evidence will be viewed in a light most favorable to sustaining a judgment and all reasonable inferences will be resolved against the Appellant.² If conflicts in evidence exists, the appellate court must resolve such conflicts in favor of sustaining the judgment and against the Appellant.³ An appellate court shall afford great weight to the trial court's assessment of witnesses' credibility and should not reverse the trial court's weighing of evidence absent clear error.⁴ When the sufficiency of evidence to support a judgment is questioned on appeal, an appellate court will examine the record only to determine whether substantial evidence exists to support the action of the lower court.⁵ The Arizona Supreme Court has explained in State v. Tison⁶ that "substantial evidence" means:

¹ State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1989); State v. Mincey, 141 Ariz. 425, 687 P.2d 1180, cert.denied, 469 U.S. 1040, 105 S.Ct. 521, 83 L.Ed.2d 409 (1984); State v. Brown, 125 Ariz. 160, 608 P.2d 299 (1980); Hollis v. Industrial Commission, 94 Ariz. 113, 382 P.2d 226 (1963).

² State v. Guerra, supra; State v. Tison, 129 Ariz. 546, 633 P.2d 355 (1981), cert.denied, 459 U.S. 882, 103 S.Ct. 180, 74 L.Ed.2d 147 (1982).

³ State v. Guerra, supra; State v. Girdler, 138 Ariz. 482, 675 P.2d 1301 (1983), cert.denied, 467 U.S. 1244, 104 S.Ct. 3519, 82 L.Ed.2d 826 (1984).

⁴ In re: Estate of Shumway, 197 Ariz. 57, 3 P.3rd 977, review granted in part, opinion vacated in part 9 P.3rd 1062; Ryder v. Leach, 3 Ariz. 129, 77P. 490 (1889).

⁵ Hutcherson v. City of Phoenix, 192 Ariz. 51, 961 P.2d 449 (1998); State v. Guerra, supra; State ex rel. Herman v. Schaffer, 110 Ariz. 91, 515 P.2d 593 (1973).

⁶ SUPRA.

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More than a scintilla and is such proof as a reasonable mind would employ to support the conclusion reached. It is of a character which would convince an unprejudiced thinking mind of the truth of the fact to which the evidence is directed. If reasonable men may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial.⁷

Appellant also complains that he was denied his opportunity to present evidence in support of his defense. Appellant attempted to offer photographs in evidence and the trial court refused the photographs claiming that he could not understand the relevance. The trial court rebuffed Appellant's attempts to explain the relevance of the photographs. On appeal, Appellant explains that the photographs were relevant to demonstrate distances and darkness of the scene where the police officer conducted an alleged pace of Appellant's vehicle. The reliability of that "pace" was an issue of fact before the trial court.

Parties appearing in all of Arizona courts, including hearings on civil traffic matters, have the right to due process. Article II, Section 4 of the Arizona Constitution provides for the identical due process rights embodied in the 14th Amendment to the United States Constitution. Our fundamental rights of due process include the right to a fair trial, the right to present witnesses' testimony and exhibits in support of one's case.

This Court has previously reviewed the testimony and evidence before the court and found substantial evidence exists to support the ruling of the trial judge. However, when a party has been denied an essential component of due process, such as

⁷ Id. At 553, 633 P.2d at 362.
Docket Code 512

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the denial of the right to present relevant evidence, this denial constitutes fundamental error.⁸

IT IS THEREFORE ORDERED reversing the findings of responsibility and sanctions imposed by the North Valley Justice Court.

IT IS FURTHER ORDERED remanding this case back to the North Valley Justice Court for a new trial on both charges, consistent with this minute entry.

⁸ See State v. Flowers, 159 Ariz. 469, 768 P.2d 201 (App. 1989).
Docket Code 512